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Informal assistance is also provided to persons whose duties under the Act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an “A,” while informal assistance is identified by the letter “I.”

Injunction Of Proposition 208 Remains In Place At Least Through The Year 2000

Following a three week trial in October and November 1997, the Federal District Court for the Eastern District of California issued a preliminary injunction barring further enforcement of any portion of Proposition 208. (*California ProLife Council PAC et al. vs. Scully et al.*, 989 F.Supp. 1282 (E.D.Cal. 1998).) The injunction was issued on January 6, 1998. The Fair Political Practices Commission appealed the District Court’s ruling to the Ninth Circuit Court of Appeals, which in January 1999, ordered the District Court to hold a second trial.

Shortly before trial began, the Legislature placed an initiative (Proposition 34) on the November 2000 ballot. Proposition 34 repealed most of the provisions of Proposition 208, including all but two of the requirements at issue in the federal court challenge that led up to the 1998 injunction of Proposition 208. Recognizing this effect of Proposition 34, the federal court signed an order lifting the injunction of Proposition 208 effective January 1, 2001, the date on which Proposition 34 came into effect. As of the new year, twelve provisions of Proposition 208 became effective (principally, advertising disclosure requirements not challenged in the federal lawsuit and not repealed by Proposition 34). Two provisions of Proposition 208 which were not repealed by the new measure, but which were challenged in court (involving slate mail disclosure issues) remained under preliminary injunction. The trial court issued its final judgment on those two provisions on March 1, 2001, adjudicating the complaint of the slate mail plaintiffs and permanently enjoining Sections 84305.5 and 84503. On March 12, 2001, the Commission filed with the trial court a motion requesting that the court alter and amend its judgment to provide that the court’s judgment did not apply to Section 84305.5 as it existed prior to Proposition 208, and to further provide that Section 84503 is unconstitutional only as applied to slate mailers.

On May 8, 2001, Judge Karlton issued an order specifying that the court had only ruled on the constitutionality of § 84305.5 insofar as it was amended by Proposition 208, and had only ruled § 84503 unconstitutional as applied to slate mailers.

Advice Summaries

April 2001

Campaign

John R. Valencia

California Assembly

Dated April 11, 2001

Our File Number: A-00-273

The prohibition in Section 85307(b) does not apply to any personal loan made by a candidate before January 1, 2001.

Jacquie Richardson, Treasurer

Mikels for State Senate

Dated April 13, 2001

Our File Number: A-01-008

The FPPC cannot waive statutory electronic filing requirements to relieve a committee of compliance costs; the transfer of debt from one committee to another would violate key record-keeping provisions of the Act.

Virginia Vida, Executive Director
San Francisco Ethics Commission

Dated April 6, 2001

Our File Number: A-01-038

Section 91013 prohibits forgiveness of late-filing penalties after the filing officer sends the "specific notice" as prescribed by the statute. The Act does not bar "settlements" of such claims after a judicial collection action has been filed.

A. Kay Vinson, CMC

City of Murrieta

Dated April 20, 2001

Our File Number: I-01-048

This response reviews the City of Murrieta's proposed local campaign ordinance to determine if it conflicts with the Political Reform Act.

C. April Boling, CPA

State Assembly

Dated April 20, 2001

Our File Number: A-01-059

Proposition 34 – in addition to funds to pay debts from a previous election, a candidate may raise additional funds to pay the costs of fundraising. A candidate with a new committee may raise funds for officeholder expenses. Issues are addressed regarding contributions to a controlled committee of another individual.

Conflicts of Interest

Heather C. McLaughlin

City of Benicia

Dated April 19, 2001

Our File Number: A-00-227

The mayor, vice mayor and city manager may all have conflicts of interest by virtue of real property that is within 500 feet of the marina that is the subject of city council decisions. The mayor leases property and runs a business on the property which is within 500 feet of the marina. The vice mayor owns two condominiums within 500 feet of the marina, and the city manager owns a single condominium within 500 feet. All three are disqualified from participating in the decision. None of the officials are legally required to participate in the decision.

David W. McMurtry

City of Dixon

Dated April 3, 2001

Our File Number: I-01-034

This informal advice letter discusses the interplay between "otherwise related business entities" (Regulation 18703.1) and the respective materiality standards for those business entities.

Advice Summaries

April 2001

Colin J. Coffey
Mills Peninsula Health System
Dated April 20, 2001
Our File Number: A-01-063

A physician who is a member of a health care district board may not participate in settlement decisions involving litigation with a hospital, and earthquake compliance issues where the party to the lawsuit is a source of income to him. This is a complex analysis of conflict-of-interest issues.

Colin J. Coffey
Mills Peninsula Health System
Dated April 20, 2001
Our File Number: A-01-064

A member of a health care district board may not participate in settlement decisions involving litigation with a hospital, and earthquake compliance issues where the hospital is a source of income to her. This is a complex analysis of conflict-of-interest issues.

Heather C. McLaughlin
City of Benicia
Dated April 26, 2001
Our File Number: A-01-074

A planning commissioner may participate in decisions related to the development of property owned by a volunteer manager of his campaign for city council, but may not accept, solicit or direct a contribution of more than \$250 from campaign manager during proceedings and for three months following the date of the final decision.

Mark E. Reagan
Dixie School District
Dated April 27, 2001
Our File Number: A-01-088

Members of a county committee on school district organization, who both own their principal residences within the boundaries of both existing and proposed school districts, can participate in the decision because their economic interests would be affected in substantially the same manner as the public generally.

Robert Brennan, Councilmember
City of Arvin
Dated April 24, 2001
Our File Number: A-01-090

A public official's domestic partner is not a per se economic interest of the official. Thus, the official will not have a conflict of interest in decisions affecting the domestic partner. However, the domestic partner may become an economic interest by virtue of income paid to the official.

Joe Nation, Assemblyman
State Legislature
Dated April 26, 2001
Our File Number: A-01-091

An Assembly member is the author of a bill that includes an augmentation of the California State University system's budget from the State General Fund. The Assembly member receives income through a business entity and the California State University has been a source of income of \$500 or more to the Assembly member within the past 12 months. The Assembly member does not have a conflict of interest, based on the "public generally" exception.

Gifts

Barbara Heller, Councilmember
City of San Rafael
Dated April 6, 2001
Our File Number: A-01-029

If travel certificates issued to a public official by a credit card company are given in the regular course of business to members of the public without regard to official status, the certificates do not constitute gifts under the Act.

Robin P. Parker
New Motor Vehicle Board
Dated April 25, 2001
Our File Number: I-01-057

The use of a refrigerator is a gift to an agency provided that each requirement of Regulation 18944.2 is fulfilled.

Advice Summaries

April 2001

Dona Spring
Berkeley City Council
Dated April 6, 2001
Our File Number: A-01-076

Lobbying

Kathye Blessing
City of Los Angeles Department of
Airports
Dated April 19, 2001
Our File Number: A-01-068

Prop. 34

Kenneth R. Homer, C.P.A.
Miller, Kaplan, Arase & Co.
Dated April 12, 2001
Our File Number: A-01-060

SEI

Robert N. Klein, II
California Housing Finance
Agency
Dated April 17, 2001
Our File Number: A-00-270

Rebecca Bingea
California Speech-Language
Pathology and Audiology Board
Dated April 13, 2001
Our File Number: I-01-080

Under the ceremonial role exception, tickets provided to a city council member to attend the opening of a theater are not a gift to the city council member.

Parking passes provided by the City of Los Angeles, a lobbyist employer, to the Senate Rules Committee are not reportable by the legislators who use the passes, nor by the city if: 1) the Senate Rules Committee accepts the passes under Regulation 18944.2, and 2) the City of Los Angeles does not provide the passes as part of its efforts to lobby the Legislature. However, if the city would not be providing the passes except for the fact that it lobbies the Legislature, the city would report the fair market value of the passes as an "Other Payment to Influence" on its Lobbyist Employer Report, Form 635.

A committee that receives contributions through an intermediate unit of its sponsor may qualify as a small contributor committee as long as all four criteria in Section 85203 are met.

A California Housing Finance Agency board member has no further income disclosure obligations for certain partnerships on his 1999 annual statement of economic interests, based on information he provided. However, if a separate partnership meets the definition of "housing sponsor," he will be required to report his pro rata share of gross income to that partnership.

This informal advice letter discusses whether certain payments received for professional writing related to a board member's work are reportable on a statement of economic interests. The letter also discusses when professional journal writing might give rise to a conflict of interest.